



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,312	07/23/2003	Vishnu A. Patankar	MS1-1611US	8391
22801	7590	05/04/2007		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER GELAGAY, SHEWAYE	
			ART UNIT 2137	PAPER NUMBER
			NOTIFICATION DATE 05/04/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary	Application No. 10/625,312	Applicant(s) PATANKAR ET AL.	
	Examiner Shewaye Gelagay	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/9/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 16-20 and 35-42 is/are pending in the application.
- 4a) Of the above claim(s) 12-15, 21-25 and 30-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 16-20 and 35-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/25/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I (claims 1-11, 16-20 and 35-42 in the reply filed on 02/09/07 is acknowledged. The traversal is on the ground(s) that the Examiner has not met the required burden of proving that the groupings are "independent" as required by the United States Code, the Code of Federal Regulations, and the Manual of Patent Examining Procedure (MPEP). This is not found persuasive because the combination as claimed does not require the particulars of the subcombination as claimed because Group I is method of managing access resources by determining the accessibility status of the requested resource while Group II is method of generation an application identifier. The subcombination has separate utility such as generating an application identifier for licensing. MPEP states that where a combination as claimed does not require the details of subcombination as separately claimed and the subcombination has separate utility, the inventions are distinct and restriction is proper. There would be a serious burden if restriction were not required as evidenced by separate classification, status, or field of search. See (MPEP § 806.05(c)) In addition, Group II would require an additional search in class 705/59 (i.e. additional 831 patents). The requirement is still deemed proper and is therefore made FINAL.
2. Claims 1-11, 16-20 and 35-42 have been examined. Claims 12-15, 21-25 and 30-34 are withdrawn from further consideration.

Claim Objections

3. Claim 29 is objected to because of the following informalities: Claim 29 recites "includes and instruction", the word "and" should be changed to "an". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "structure-related data" in claim 3 is a relative term which renders the claim indefinite. The term "structure-related data" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 is directed to generating and comparing a signature for a requested resource and determining accessibility status of

the requested resource. The claimed steps do not produce a useful, concrete and tangible result.

8. Claims 2-11 are rejected for being dependent on the rejected claim.

9. Claims 35-40 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 35 is directed towards a computer accessible medium having a program wherein the computer-accessible medium is not defined by the specification as being a storage medium. Applicant's specification on page 21, paragraphs 63-65 teaches that a computer accessible medium comprises a communication media embodying ... a modulated data signal, such as carrier wave or other transport mechanisms. Claims 35-41 are rejected as being directed to functional descriptive material consists of data structures and computer programs.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-4, 10-11, 16, 20, 26, 35 and 38-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Garst et al. (hereinafter Garst) US Patent Number 6,188,995.

As per claim 1:

Garst teaches a method for managing access to resources, comprising:
accessing a list of resource signatures, each of the resource signatures being classified

Art Unit: 2137

to indicate an accessibility status of a corresponding resource; (col. 5, line 67-col. 6, line 2) generating a verification signature for a requested resource; (col. 6, lines 3-15) comparing the verification signature for the requested resource to the list of resource signatures; (col. 6, lines 3-15) and determining the accessibility status of the requested resource in accordance with the accessibility status by which the resource signature matching the verification signature is classified. (col. 6, lines 15-20)

As per claims 2 and 40:

Garst further teaches wherein the resources include applications or programs.
(col. 2, lines 56-67)

As per claim 3:

Garst further teaches wherein the resource signature for each of the respective resources includes a manipulation of structure-related data from the resource. (col. 5, lines 1-65)

As per claim 4:

Garst further teaches wherein the resource signature for each of the respective resources includes a hash of function names from each of the respective resources.
(col. 5, lines 11-24)

As per claim 10:

Garst further teaches wherein a same procedure is followed to generate each of the resource signatures and to generate a verification signature. (col. 5, lines 36-38)

As per claim 11:

Garst further teaches wherein the accessibility status of the resources includes one of permissible or impermissible. (col. 6, lines 15-20)

As per claim 16:

Garst teaches a method of restricting particular applications, comprising: receiving a list of application fingerprints corresponding respectively to restricted applications; (col. 5, line 67-col. 6, line 2) receiving a request to execute an application; (col. 5, line 67-col. 6, line 2) generating a confirmation fingerprint for the requested application; (col. 6, lines 3-15) comparing the confirmation fingerprint to the list of application fingerprints; (col. 6, lines 3-15) and restricting the requested application if the confirmation fingerprint matches one of the application fingerprints respectively corresponding to restricted applications. (col. 6, lines 15-20)

As per claim 20:

Garst teaches a method wherein the restricted applications are not licensed. (col. 6, lines 23-39)

As per claims 26, 35 and 41:

Garst teaches an apparatus, comprising: an interface to receive a request for a running state of an application; (col. 6, lines 47-66; col. 7, line 39-col. 8, line 65) an application identifier to generate an identifier for the application; (col. 6, lines 49-50) an application manager to match the identifier against a list of identifiers indicating whether corresponding applications are eligible or ineligible for a running state; (col. 6, line 56-col. 7, line 22) and an enabler to enable the running state for the application if the

Art Unit: 2137

identifier is not matched to an identifier indicating that the application is ineligible. (col. 6, line 56-col. 22)

As per claim 38:

Garst further teaches wherein the API is included in an operating system. (col. 6, lines 47-66; col. 7, line 39-col. 8, line 65)

As per claim 39:

Garst further teaches wherein the operating system runs on a web server. (col. 15, line 55- col. 16, line 13)

As per claim 42:

Garst further teaches downloading an updated list of the classified digital signatures to the operating system. (col. 11, lines 26-50; col. 15, line 55- col. 16, line 13)

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2137

13. Claims 5-9, 17-19, 27-28 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over as being anticipated by Garst et al. (hereinafter Garst) in view of Shaughnessy US Patent 6,026,235.

As per claims 5:

Garst teaches all the subject matter as discussed above. In addition, Garst further discloses wherein generating the verification signature for the requested resource includes: retrieving data that uniquely identifies the resource; (col. 5, line 67- col. 6, line 2) and executing a mathematical manipulation of the linked data. (col. 6, lines 3-15) Shaughnessy in analogous art, however, discloses sorting the retrieved data; and linking the sorted data. (col. 4, lines 14-28) Therefore it would have been obvious to one ordinary skill in the art to modify the method disclosed by Garst with Shaughnessy in order to determine the names and address of all functions in an application. (col. 4, lines 16-17; Shaghnessy)

As per claim 6:

The combination of Garst and Shaughnessy teaches all the subject matter as discussed above. In addition, Garst further teaches wherein the resources include applications or programs. (col. 2, lines 56-67)

As per claims 7, 18 and 27:

The combination of Garst and Shaughnessy teaches all the subject matter as discussed above. In addition, Shaughnessy further teaches wherein the retrieved data includes an import table. (col. 4, line 18)

As per claims 8 and 19:

The combination of Garst and Shaughnessy teaches all the subject matter as discussed above. In addition, Shaughnessy further teaches wherein the retrieved data includes function names from an import table. (col. 4, lines 19-20)

As per claim 9

The combination of Garst and Shaughnessy teaches all the subject matter as discussed above. In addition, Shaughnessy further teaches wherein the retrieved data includes dynamic link library (DLL) names from an import table. (col. 10, lines 19-27)

As per claims 17, 28 and 36-37:

Garst teaches all the subject matter as discussed above. In addition, Garst teaches retrieving data from an executable of the requested application describing linkages to other applications; and hashing organized information. (col. 5, lines 1-65) Garst does not explicitly disclose sorting the retrieved data; and organizing the sorted information in a predetermined manner. Shaughnessy in analogous art, however, discloses sorting the retrieved data; and organizing the sorted information in a predetermined manner. (col. 4, lines 14-28) Therefore it would have been obvious to one ordinary skill in the art to modify the method disclosed by Garst with Shaughnessy in order to determine the names and address of all functions in an application. (col. 4, lines 16-17; Shaghnessy)

14. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over as being anticipated by Garst et al. (hereinafter Garst) in view of Shaughnessy US Patent 6,026,235 and further in view of Atkinson et al. (hereinafter Atkinson) US Patent Number 5,892,904.

Art Unit: 2137

As per claim 29:

The combination of Garst and Shaughnessy teaches all the subject matter as discussed above. Both references do not explicitly disclose wherein the instruction to hash further includes and instruction to execute an MD5 hashing algorithm. Atkinson in analogous art, however, discloses wherein the instruction to hash further includes and instruction to execute an MD5 hashing algorithm. (col. 20, lines 1-10) Therefore it would have been obvious to one ordinary skill in the art to modify the method disclosed by Garst and Shaughnessy with Atkinson in order to provide a preferential hash algorithm. (col. 20, line 2; Atkinson)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shewaye Gelagay whose telephone number is 571-272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Shewaye Gelagay


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER